



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2015-0262]**

**Hours of Service of Drivers: National Star Route Mail Contractors Association; Application for Exemption**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition; denial of application for exemption.

**SUMMARY:** FMCSA announces that it has denied the National Star Route Mail Contractors Association (NSRMCA) application to exempt its contract carrier members from the “14-hour rule” of the Agency’s hours-of-service (HOS) regulations. NSRMCA requested that a driver of a commercial motor vehicle (CMV) transporting U.S. mail be allowed to follow an alternative HOS regimen consisting of no more than 10 hours of driving following 8 consecutive hours off duty; the driver would also be prohibited from driving after having been on duty for 15 non-consecutive hours following 8 consecutive hours off duty. FMCSA reviewed NSRMCA’s application and the public comments received, and denied the application because available information did not allow the Agency to conclude that the proposed exemption would achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained absent the exemption.

**DATES:** FMCSA denied the application for exemption by letter dated January 12, 2016.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA; Telephone: 202-366-4325. E-mail: [MCPSD@dot.gov](mailto:MCPSD@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

**NSRMCA Application for Exemption**

NSRMCA is a national trade association representing contractors transporting mail for the United States Postal Service (USPS) in all 50 States as well as U.S. territories.

On behalf of its members employing “split-shift” contract CMV drivers, NSRMCA requested an exemption from the “14-hour rule” in 49 CFR 395.3(a)(2), which prohibits a property-carrying driver from driving a CMV after 14 hours after coming on duty following 10 consecutive hours off duty. Under NSRMCA’s proposal, a driver transporting U.S. mail could drive a CMV no more than 10 (instead of the normal 11) hours following 8 (instead of the normal 10) consecutive hours off duty; and not drive after having been on duty 15 hours following 8 consecutive hours off duty.

### **Public Comments**

On August 20, 2015, FMCSA published in the **Federal Register** notice of the NSRMCA application and requested public comment (80 FR 50711). The Agency received 562 comments, 542 of which opposed the exemption request. The commenters objected to the extension of the duty day, which they said would lead to more fatigued drivers and, potentially, an increase in CMV crashes. Several commenters saw this request as a cost-cutting measure which would enable NSRMCA members to reduce the number of CMV drivers they employed while performing the same level of mail-delivery service. Others noted that FMCSA had denied an identical request for the same exemption filed by the USPS (74 FR 23467, May 19, 2009). USPS had failed to demonstrate that the exemption would maintain a level of safety equal to, or greater than, the level of safety established by the current HOS rules.

Only 10 comments supported the exemption request, and two of them were filed by the original petitioner, NSRMCA.

### **FMCSA Decision**

The Agency’s decision is based upon the information provided by the applicants, review of comments received in response to the **Federal Register** notice, and the

substantial body of HOS research the FMCSA relied upon to implement the 14-hour rule (68 FR 22473, April 28, 2003). The Agency concluded that the NSRMCA application failed to demonstrate how it would ensure that the operations of its members under the exemption would achieve a level of safety that would be obtained in the absence of the exemption. NSRMCA's exemption would allow drivers to operate for more hours and obtain less restorative rest. FMCSA has denied the same request on two previous occasions. NSRMCA did not provide any data, studies or research supporting its recommendations or sufficient specific information about these operations. Therefore, the Agency cannot determine that NSRMCA's proposed exemption would meet the statutory requirement to maintain the current levels of safety. Accordingly, FMCSA denied NSRMCA's application for exemption by letter dated January 12, 2016.

Issued on: March 10, 2016.

Larry W. Minor  
Associate Administrator for Policy

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